



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5851-N-02]

Rental Assistance Demonstration (RAD) - Alternative Requirements or Waivers: Waiving the Minimum Rent and Security Deposit Requirements for the Housing Authority of Baltimore City's Specified RAD Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The Rental Assistance Demonstration (RAD) statute gives HUD authority to establish waivers and alternative requirements. This notice advises that HUD is waiving, for the Housing Authority of Baltimore City (HABC), minimum rent and security deposit requirements governing project-based assistance with respect to an identified portfolio that includes projects converting assistance under RAD. These waivers are necessary to ensure that HABC can successfully operate these properties in accordance with the terms and conditions required under a consent decree from a fair housing case. Without these waivers, HABC would not be able to effectively operate the converted properties, as they have been operated under the consent decree, after their conversion under the RAD program.

DATES: Effective Date: **[Insert date that is 10 days following the date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Thomas R. Davis, Director, Office of Recapitalization, Office of Housing, Department of Housing and Urban Development, 451 7th

Street SW, Washington, DC 20410-7000; telephone number 202-708-0001 (this is not a toll-free number). Hearing- and speech-impaired persons may access these numbers through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND AND ACTION

On July 2, 2013, HUD issued PIH Notice 2012-32 Rev-1 (as corrected by the technical correction issued February 6, 2014) (“RAD Notice Rev-1”), which superseded PIH Notice 2012-32. RAD Notice Rev-1 is found at the following URL:

<http://portal.hud.gov/hudportal/documents/huddoc?id=pih2012-32rev1.pdf>. RAD Notice Rev-1, at section 1.9, paragraph F, entitled “Portfolio Awards,” also sets forth a new option of a “portfolio award,” which allows public housing agencies (PHAs) to apply for RAD conversions affecting a group of projects. This type of award is meant to enable PHAs to create a comprehensive revitalization plan for multiple buildings they oversee. HABC has submitted an application for a portfolio award under RAD, and seeks to convert assistance from public housing to Section 8 Project-Based Rental Assistance (PBRA). While HUD has published a second revision of the RAD Notice (PIH Notice 2012-32 Rev-2), HABC has applied for a portfolio award under the terms and conditions of RAD Notice Rev-1.

The RAD statute (Pub. L. 112-55, approved November 18, 2011, as amended)¹ gives HUD authority to waive or specify alternative requirements for various provisions of the law upon a finding that such waivers or alternative requirements are necessary for the effective conversion of assistance under RAD. In order to utilize this authority, the RAD statute requires

¹ The RAD statutory requirements were amended by the Consolidated Appropriations Act, 2014 (Pub. L. 113-76, signed January 17, 2014) (2014 Appropriations Act) and the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235, signed December 16, 2014) (2015 Appropriations Act). The statutory provisions of the 2012 Appropriations Act pertaining to RAD, as amended, are referred to as the RAD Statute in this notice.

HUD to publish by notice in the Federal Register any waiver or alternative requirement, no later than 10 days before the effective date of such notice. This notice meets this publication requirement.

HABC is subject to certain restrictions on their programs pursuant to Bailey v. Housing Authority of Baltimore City and subsequent extensions, amendments, and other agreements with the plaintiffs of such case and the Department of Justice (collectively referred to herein as the “Bailey Consent Decree”). In order for the covered project to comply with the Bailey Consent Decree requirements, residents of the projects for which HABC intends to convert assistance under RAD must retain the rights, privileges, and benefits that are provided to public housing residents. The PBRA regulations relating to minimum rent and security deposit payments differ from public housing requirements. 24 CFR 5.630(a)(3) establishes a minimum rent requirement of \$25 for the PBRA program. 24 CFR 880.608(a) mandates that the owner of the converted unit require each family to pay a security deposit in an amount “equal to one month’s Total Tenant Payment or \$50, whichever is greater.”

Therefore, in order to continue its compliance with the Bailey Consent Decree, HABC has requested, and HUD has granted, alternative requirements to the regulations above to permit a minimum rent amount of \$0 and to allow the owners of units with converted assistance the ability to require each family to pay a security deposit equal to the lesser of either one month’s

rent or \$50. HUD has determined that the requested waivers and alternative requirements are necessary for the effective conversion of assistance under RAD of the properties contemplated under the HABC portfolio award.

Dated: August 13, 2015.

Edward L. Golding, Principal Deputy Assistant
Secretary for Housing

Nani A. Coloretti, Deputy Secretary

Approved on August 14, 2015.

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